REMARKS

Initially, Applicant expresses appreciation to the Examiner for the courtesies extended in the recent in-person interview held with Applicant's representative on February 27, 2007. The amendments and remarks presented herein are consistent with the discussion of that interview. Accordingly, entry of this amendment and reconsideration of the pending claims is respectfully requested.

The Office Action, mailed January 12, 2007, considered and rejected claims 1-37 and 40. Claims 4, 6, 19, 33-35 and 37 were rejected under 35 U.S.C. § 101 as being inoperative and thereby lacking utility. Claims 1-37 and 40 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 1-37 and 40 were rejected on the ground of obviousness-type, non-statutory double patenting over claims 1-10 of U.S. Patent No. 6,643,705 (the '705 patent) and over U.S. Patent No. 6,081,802 (the '802 patent). Claims 1-3, 5-37 and 40 were rejected under 35 U.S.C. § 102(e) as being anticipated by *Ouchi* (U.S. Patent No. 6,370,567). Claim 4 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ouchi* in view of *Cutler, Jr.* (U.S. Patent No. 5,572,512).[1]

By this amendment, claims 1, 4, 5, 7, 8, 10, 11, 14-17, 19-21, 23-26, 28-32 and 36-40 have been amended, while no claims have been added or cancelled. Accordingly, following this paper, claims 1-37 and 40 remain pending, of which claims 1, 17, 20, 24, 28, 32 and 40 are the only independent claims at issue.[2]

As discussed during the interview, Applicant's claims are generally directed to embodiments in which a messaging system can route a message to multiple recipients, and in a designated order. As reflected in independent claim 1, for example, a routing map is generated that includes a low-level description of a route an electronic message should take. The routing map does so by defining a series of operations that, upon execution, result in the electronic message being sequentially distributed to the multiple recipients, in the specified order, one after each other. To execute the operations of the routing map, multiple executable scripts, which are

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[1] Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

[2] Support for the above claim amendments can be found throughout Applicant's original application, including at least the disclosure found in paragraphs 36 and 56 of the originally filed application, and in the original claims and figures.

stored separately from the routing map, are referenced in the routing map and associated with the operations of the routing map. When the routing script is called by executing a corresponding portion of the route in the routing map, it can thereby perform one or more of the operations defined by the routing map.

Independent claims 17, 20, 24, 28, 32 and 40 recite methods and computer program products, each of which include various elements generally corresponding the elements of the method in claim 1. Accordingly, any arguments presented with regard to claim 1 are equally applicable with regard to the remaining independent claims.

As also discussed during the in-person interview, while *Ouchi* generally relates to sending messages in a sequence, it fails to disclose or suggest each and every element of the pending claims. For example, among other things, *Ouchi* fails to disclose or suggest a routing map which is a low-level description of a route an electronic message should take, and which includes references to multiple executable scripts which are external to the routing map and which, when executed, perform the operations described in the routing map, as recited in combination with the other claim elements.

Instead, *Oichi* discloses a system in which a form route manager includes and uses an SQL table to route messages, and such that the SQL table determines what workflow is used for message transmission. Specifically, the SQL table includes rows identifying a step number, the email address of the next person in the sequence, and which step is next in the sequence. Accordingly, upon execution, the sender can send a message to the first named recipient. Upon return of a message, the step number can be incremented and a message sent to the next identified recipient, and so on. In some cases, the SQL table may reference a further table which identifies the email addresses and relationships between individuals (e.g., the managers of various employees).

Accordingly, as discussed in the interview, in *Oichi*, the form route manager includes executable code to parse the SQL table or other database tables, and send appropriate messages according to the workflow. These various tables are, however, mere database tables that provide the information necessary for the form route manager to send the email messages, or to end the

message flow, when appropriate. The SQL table does not, however, reference or call any separate executable script, as recited in combination with the other claim elements.

With regard to the rejections under 35 U.S.C. § 101, and as discussed during the interview, Applicant respectfully submits that the claims overcome the rejections of record, even without amendment. In particular, the Office Action notes that the rejections are made on the basis of the claimed invention being "inoperative." The Office Action provides, however, no basis or technical reasoning to support an assertion that the claimed invention is "inoperative." Indeed, as described in detail in the application, the pending claims are directed to, in general, a hub-and-spoke system in which a server can transmit messages sequentially. The claims do not recite any matter which renders this impossible, impracticable, or impossible, but instead recite steps and acts for furthering this system.

Moreover, as amended, Applicant respectful submits that the claims are clearly directed to patentable subject matter in view of the amendments made herein. For example, claims 6, 19 and 32-35 recite methods in which a route map or other instruction is encoded on a computer readable storage medium, although an invention may equally be operative with a computer readable communication medium. Further, claims 28 and 40 each recite systems in which a message is routed as defined in a routing map which references various separate executable scripts. As a consequence of executing these scripts, a practical application is obtained, namely the transmission/sending of messages to one or more recipients.

The Office Action also states that claim 28 is inoperative for not describing aspects recited in the claims. Applicant notes, however, that paragraphs 9 and 32 of the application clearly provide support for a routing map, executable script, routing logic, etc. being maintained at a central server without being sent to any message recipients.

As further discussed with the Examiner, Applicant also respectfully submits that the claims as previously presented, and as amended, overcome the rejections under 35 U.S.C. § 112, second paragraph. With respect to claim 15, the Office Action rejects the claim as indefinite for "a first electronic message without a second message." However, claim 15 does not recite a "second message," so the assertion is moot. With respect to claim 19, the claim clearly recites that a first field data field, second data field, and third data field are available for each entry of

the plurality of entries in the route map. The "whereby" language has also been removed from claims 1 and 17; however, Applicant notes that no "whereby" language was previously included in claims 20-37 and 40, as previously asserted in the Office Action.

With regard to the rejections under obviousness-type double patenting in view of the '705 and '802 patents, Applicant respectfully notes that this amendment is being filed with a terminal disclaimer disclaiming any terminal portion of a patent granted on this application which extends beyond the full term available to the '705 patent. However, no terminal disclaimer is believed necessary with regard to the '802 inasmuch as the claims of the '802 patent fail to disclose or suggest various aspects of any of the pending claims. Further, the Office Action asserts that only portions of the pending claims are found in the claims of the '802 patent. For instance, the Office Action notes that "retrieving an identification reference associated with the map element in response to selecting the map element" is the equivalent of generating a routing map, but fails to even assert that the claims recite or suggest a series of operations that, when executed, result in the electronic message being sequentially distributed to a plurality of recipients, in series, one after the other in a designated order, as recited in combination with the other claim elements. Nor do the claims of the '802 patent recite of suggest the inclusion of any references to separately stored executable scripts within a routing map, as recited in combination with the other claim elements.

In view of the foregoing and the discussions during the interview, Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner provide references supporting the teachings officially noticed, as well as the required motivation or suggestion to combine the relied upon notice with the other art of record.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney by telephone at (801) 533-9800.

Dated this 11th day of April, 2007.

Respectfully submitted,

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